

UNITED STATES DISTRICT COURT

for the

Eastern District of Michigan

United States of America

v.

Jose David HUERTA-RODRIGUEZ,
a/k/a Jose Rogelio GARZA,

Case No. Case: 2:24-mj-30457

Assigned To : Unassigned

Assign. Date : 10/25/2024

Description: CMP USA V. JOSE
DAVID HUERTA-RODRIGUEZ
(DA)


CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of October 22, 2024 in the county of Macomb in the
Eastern District of Michigan, the defendant(s) violated:*Code Section**Offense Description*Title 8, United States Code, Section 1326(a)(1),(b)
(2)Unlawful Re-entry After Removal from the United States, Prior Aggravated
Felony Conviction

This criminal complaint is based on these facts:

On or about October 22, 2024, in the Eastern District of Michigan, Southern Division, Jose David HUERTA-RODRIGUEZ, a/k/a Jose Rogelio GARZA, an alien from Mexico who was previously convicted of an aggravated felony offense, and was subsequently excluded, deported and removed from the United States on or about June 7, 2024, was found in the United States not having obtained the express consent of the Attorney General of the United States or the Secretary of Homeland Security to re-apply for admission thereto; in violation of Title 8, United States Code, Section 1326(a) and (b)(2).

☒ Continued on the attached sheet.*Complainant's signature*

Mark I. Vincent, Border Patrol Agent/DHS

Printed name and title

Sworn to before me and signed in my presence.

Date: October 25, 2024City and state: Detroit, Michigan*Judge's signature*

Elizabeth A. Stafford, United States Magistrate Judge

Printed name and title

Save

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AFFIDAVIT

I, Mark I. Vincent, declare the following under penalty of perjury:

1. I am a United States Border Patrol Agent with the United States Department of Homeland Security, United States Border Patrol. I have been employed in this capacity since December 14, 2009. Currently, I am assigned to the Marysville Border Patrol Station. The facts set forth herein are based upon my personal knowledge as well as information provided by other law enforcement officers to include Border Patrol agents and records checks of law enforcement databases. I have also reviewed the official immigration file and system automated data relating to Jose David HUERTA-RODRIGUEZ, which attests to the following:
2. This affidavit is made in support of a criminal complaint and the issuance of an arrest warrant for Jose David HUERTA-RODRIGUEZ, DOB: xx/xx/1972, A# xxx xxx 146, for a violation of Title 8 U.S.C. § 1326(a) and(b)(2).
3. The information set forth below is for the limited purpose of establishing probable cause. Therefore, this affidavit does not necessarily contain all the information collected during my investigation.
4. HUERTA-RODRIGUEZ is a fifty-one-year-old native and citizen of Mexico, who last entered the United States at or near an unknown place, on or about an unknown date, without being admitted, inspected, or paroled by an Immigration Officer.
5. On January 10, 1991, HUERTA-RODRIGUEZ applied for an Application for Employment Authorization (Immigration Form I-765), and Voluntary Departure (Immigration Form I-817) under The Family Fairness Act in Imlay City, Michigan. HUERTA-RODRIGUEZ was issued Alien number XXX-XXX-146. His fingerprints were acquired during this application process.
6. On May 07, 1991, HUERTA-RODRIGUEZ'S Application for Employment Authorization (Immigration Form I-765), and Voluntary Departure (Immigration Form I-817) under The Family Fairness Act were both denied.
7. On September 02, 1994, a relative of HUERTA-RODRIGUEZ filed a Petition for Alien Relative (Immigration Form I-130) on his behalf. This petition was subsequently denied on December 30, 1994.

8. On September 25, 1994, HUERTA-RODRIGUEZ was arrested by the Almont Police Department in Michigan and charged with Operating While Intoxicated - (misdemeanor) and Police Officer Fleeing – (misdemeanor).
9. On January 25, 1995, HUERTA-RODRIGUEZ was convicted in the 71A District Court, Michigan, of Operating While Intoxicated and sentenced to 6 days' confinement, a \$1009 fine, and 8 months' probation. HUERTA-RODRIGUEZ was also convicted of Police Officer Fleeing and sentenced to 6 days' confinement, a \$209 fine and 8 months' probation.
10. On February 14, 1996, HUERTA-RODRIGUEZ, applied for a Voluntary Departure (Immigration Form I-817) under The Family Unity Program in Harlingen, Texas. HUERTA-RODRIGUEZ'S fingerprints were again acquired during this application process.
11. On December 04, 1996, HUERTA-RODRIGUEZ'S application for Voluntary Departure (Immigration Form I-817) under The Family Unity Program was denied.
12. On June 08, 1999, HUERTA-RODRIGUEZ obtained a Michigan Identification Card (G620-440-744-404) under the name Jose Rogelio GARZA, DOB: XX/XX/1977.
13. On February 27, 2002, HUERTA-RODRIGUEZ was the suspect in a domestic violence case. HUERTA-RODRIGUEZ, while intoxicated, shot his wife (Anita HERNANDEZ) in the leg with a .22 caliber rifle. Authorities were unable to locate HUERTA-RODRIGUEZ at this time and a warrant was issued for his arrest. HUERTA-RODRIGUEZ was charged with Firearm-Discharge with injury or death and Weapons-Felony Firearm.
14. On April 18, 2002, HUERTA-RODRIGUEZ plead guilty to the charges, Firearm-Discharge with injury or death and Weapons-Felony Firearm.
15. On May 28, 2002, HUERTA-RODRIGUEZ failed to appear for his sentencing court date in Macomb County, Michigan. A bench warrant was issued for his arrest.
16. On September 03, 2004, HUERTA-RODRIGUEZ was encountered by the Macomb County Sheriff's Department and charged with Controlled Substance-Possession (Cocaine, Heroin or Another Narcotic) Less than 25 Grams and Open Container in Vehicle. During this encounter, HUERTA-RODRIGUEZ was

fingerprinted and used the alias name of Jose Rogelio GARZA. HUERTA-RODRIGUEZ was released on bond on September 15, 2004. HUERTA-RODRIGUEZ'S 2002 court case involving the firearm was reopened and sentencing was scheduled for October 20, 2004.

17. On October 20, 2004, HUERTA-RODRIGUEZ was sentenced to 12 months' incarceration for the Felony Firearms charge and 30 days' incarceration for the Attempted Firearm Discharge with Injury or Death charge. HUERTA-RODRIGUEZ was subsequently released from Macomb County Jail on July 8, 2005.

18. On November 09, 2004, HUERTA-RODRIGUEZ was ordered by the 42-1 District Court, Michigan, to pay court costs and fines, and the Controlled Substance Possession/Analogues/Misdemeanor charges were deferred.

19. On March 14, 2008, HUERTA-RODRIGUEZ was arrested by the Mesquite Nevada Police Department and charged with Driving Under the Influence of Alcohol. During this encounter HUERTA-RODRIGUEZ used the alias name of Jose Rogelio GARZA.

20. On July 28, 2008, HUERTA-RODRIGUEZ was found guilty of Driving Under the Influence of Alcohol following trial at the Mesquite Municipal Court, Nevada. He was fined \$722, incarcerated for two days, and ordered to attend six months of counseling.

21. On December 10, 2018, HUERTA-RODRIGUEZ was arrested by the Michigan State Police, Metro North Post and charged with Operating-No License/Multiple Licenses, Alcohol-Open Container in Vehicle, and Weapons-Carrying Concealed/Felony. During this encounter HUERTA-RODRIGUEZ utilized the alias name of Jose Rogelio GARZA.

22. On March 12, 2019, HUERTA-RODRIGUEZ was convicted under the alias name of Jose Rogelio GARZA in the 16th Circuit Court Macomb County, Michigan for Operating/No License/Multiple Licenses and Carrying Concealed Weapon-Attempted/Felony. HUERTA-RODRIGUEZ was sentenced to 30 days' confinement and eighteen months' probation.

23. On November 29, 2022, HUERTA-RODRIGUEZ was encountered by the St. Clair County Sheriff's Department. During this encounter HUERTA-RODRIGUEZ claimed to be Jose Rogelio GARZA and presented an expired Michigan

identification card bearing the name Jose Rogelio GARZA, DOB: XX/XX/1977. HUERTA-RODRIGUEZ was charged with Firearm Possession by Felon; Felony Firearm; Ammunition Possession by Felon; Felony Firearm; Firearm Possession Under the Influence (misdemeanor) and Firearms Reckless Use (misdemeanor).

24. On December 13, 2022, HUERTA-RODRIGUEZ was encountered by United States Border Patrol Agents near Allenton, Michigan. During this encounter HUERTA-RODRIGUEZ claimed to be Jose Rogelio GARZA, DOB: XX/XX/1977, falsely and wrongfully identifying himself to United States Border Patrol Agents as a United States citizen. HUERTA-RODRIGUEZ was found to have felony warrants out of St. Clair County for firearms related offenses and was turned over to the St. Clair County Sheriff's Department on these warrants. An I-247 Immigration Detainer was placed on him.

25. On January 03, 2023, HUERTA-RODRIGUEZ was convicted in the 31st District Court, Michigan, under his alias name of "Jose Rogelio GARZA" of Weapons-Firearms-Possession by Felon (MCL750.224F), Weapons-Ammunition-Possession by Felon (MCL750.224F6), and Firearm-Possession Under Influence (MCL750.237).

26. On February 13, 2023, HUERTA-RODRIGUEZ was sentenced in the 31st District Court to 6 months' confinement with 62 days' credit in the St. Clair County Intervention Center.

27. On May 11, 2023, HUERTA-RODRIGUEZ was encountered by United States Border Patrol Agents at the St. Clair County Jail near Marysville, Michigan. HUERTA-RODRIGUEZ was transferred into the United States Marshalls custody pending prosecution for his False Claim to United States Citizenship, during his December 13, 2022, encounter with Border Patrol Agents.

28. On September 20, 2023, HUERTA-RODRIGUEZ pleaded guilty to and was convicted in the United States District Court - Eastern District of Michigan of 18 U.S.C. § 1001(a)(2), False Statement to Department or Agency of the United States. HUERTA-RODRIGUEZ was sentenced to 12 months' imprisonment.

29. On May 10, 2024, HUERTA-RODRIGUEZ was encountered by agents of Immigration and Customs Enforcement (ICE) at the Oxford Federal Correctional Institute in Oxford, Wisconsin. HUERTA-RODRIGUEZ was served a Warrant of Arrest and Notice to Appear.

30. On May 24, 2024, HUERTA-RODRIGUEZ was ordered removed from the United States to Mexico by an Immigration Judge in Chicago.

31. On June 07, 2024, HUERTA-RODRIGUEZ was removed from the United States to Mexico via the Brownsville-Matamor, Texas port of entry.

32. On October 22, 2024, HUERTA-RODRIGUEZ was encountered by Border Patrol Agents near Shelby Township, Michigan. HUERTA-RODRIGUEZ freely admitted to being a citizen of Mexico, who had illegally re-entered the United States from Mexico after his last removal from the United States on June 07, 2024.

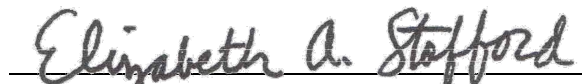
33. Review of the alien file (A# xxx xxx 146) for HUERTA-RODRIGUEZ, and queries in U.S. Border Patrol computer databases confirm no record exists of HUERTA-RODRIGUEZ obtaining the express permission from the Attorney General or the Secretary of the Department of Homeland Security to re-enter the United States following his last removal on June 07, 2024.

34. Based on the above information, I believe there is probable cause to conclude that Jose David HUERTA-RODRIGUEZ, is an alien who was found in the United States after removal, and after being convicted of an aggravated felony offense, without the express permission from the Attorney General of the United States or from the Secretary of the Department of Homeland Security to re-apply for admission into the United States in violation of Title 8 U.S.C. § 1326(a) and (b)(2).



Mark I. Vincent, Border Patrol Agent
U.S. Department of Homeland Security

Sworn to before me and signed in my
presence and/or by reliable electronic means.



Honorable Elizabeth Stafford
United States Magistrate Judge